

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DOMINION RETAIL, INC.,)
Plaintiff,) Civil Action No. 11-233
v.) Judge Cathy Bissoon
TIM ROGERS, *et al.*,) Magistrate Judge Cynthia Reed Eddy
Defendants.)

MEMORANDUM ORDER

On October 27, 2011, this case was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 72.C and 72.D of the Local Rules for Magistrates.

On January 30, 2013, the Magistrate Judge issued a Report (Doc. 91) recommending that Plaintiff's Motion for Summary Judgment (Doc. 51) be granted, that Defendants' Motion for Summary Judgment (Doc. 56) be denied, and that Defendants' Motion to Strike portions of the affidavit of Winfield Ryan (Doc. 86) be denied as moot.

Service of the Report and Recommendation was made on the parties, and Defendants timely filed Objections. *See Doc. 92.* In addition, the parties filed a Stipulation (Doc. 96), agreeing, among other things, that Plaintiff's damages for its state "Sales Tax Claim" shall be limited to \$1,421,980.91, plus post-judgment interest as permitted by law. *See Doc. 96-1* at 2. The parties' Stipulation (**Doc. 96-1**), including Defendants' reservation of rights, hereby is

After a *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation and the Objections thereto, the following Order is entered:

Plaintiff's Motion for Summary Judgment (**Doc. 51**) is **GRANTED**, Defendants' Motion for Summary Judgment (**Doc. 56**) is **DENIED**, and Defendants' Motion to Strike portions of the affidavit of Winfield Ryan (**Doc. 86**) is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that the Magistrate Judge's Report and Recommendation (Doc. 91) is adopted as the Opinion of the District Court, and judgment will be entered, in favor of Plaintiff and against Defendants, in the amount of \$1,931,642.80 (\$509,661.89 for Plaintiff's claims regarding federal taxes, and \$1,421,980.91 for Plaintiff's claims regarding state sales and use taxes).

Finally, by April 5, 2013, Plaintiff shall file documentation in support of its request for attorneys' fees and costs, consistent with the Report/Opinion (Doc. 91) at pages 23-25, and by April 19, 2013, Defendants may respond to Plaintiff's submissions regarding fees and costs.¹

IT IS SO ORDERED.

March 19, 2013

s\Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All counsel of record

¹ Should Plaintiff file a response, it must be limited to the specific fees and costs requested, as opposed to whether fees and costs should be awarded, generally. The latter issue already has been decided in Plaintiff's favor. *See* Doc. 91 at pages 23-25.